IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 10150 of 2004

Between:
K. Srinivas S/o. Lingaiah
Korutla, Karimnagar District.

..... PETITIONER

AND

1 A.P.S.T.R.C., rep. by its M.D., Musheerabad, Hyd.
2 the Depot., Manager, APSRTC, Korutla Depot, Korutla, Karimnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 2nd respondent and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the action of 2nd respondent in proceedings No.01/583(2)/2004 -KRTL, DT. 7.5.2004, DELETING NAME OF THE PETITIONER FROM THE APPROVED LIST/SELECT list besides ceasing appointment as Conductor on the ground of unsuitability as illegal, unjust, contrary to law, arbitrary, in violation of principles of natural justice, an act of victimization and unfair labour practice and violative of Articles 14,16 and 21 of the Constitution of India; and grant all consequential benefits;

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO,Advocate

Counsel for the Respondents: SMT.G.JYOTHI KIRAN,Standing Counsel

The Court at the admission stage made the Following :

ORDER

Heard both sides. At the request of the counsel appearing on both sides, the main writ petition, itself, is heard and disposed of.

The present writ petition is filed questioning the order passed by the second respondent in proceedings No.01/583(2)/2004-KRTL, dated 07.05.2004, deleting name of the petitioner from the approved list/select list of the Conductors.

It is submitted by the learned counsel for the petitioner that while the petitioner was working as a Conductor, participated in the strike on 15.4.2004 and 16.4.2004. Thereupon alleging misconduct against the petitioner, a show cause notice dated 17.4.2004 was issued. The petitioner submitted explanation to the said show cause notice, explaining the reasons therefor. It is submitted that without considering the explanation submitted by the petitioner and without giving him an opportunity of being heard, the second respondent passed the impugned order.

Learned counsel for the petitioner submitted that the question involved for adjudication in this writ petition is squarely covered by a decision of this Court in A.Hemalatha Vs. APSRTC[1], wherein it was held:

> "Therefore, it was imperative for the respondents to conduct an inquiry. It is also contended by the learned counsel for the respondents that the Corporation Rules do not contemplate an inquiry with respect to daily wageworkers. That might be so, but it is against the rules of natural justice to punish a person by creating a stigma for her, which would hurt her through out her life, without even conducting an enquiry. Since inquiry has not been conducted and an order has been passed which creates a stigma, therefore, the order cannot sustain."

In the present case also, admittedly, no inquiry was conducted by the second respondent before inflicting the punishment upon the petitioner, through the proceedings impugned herein.

Following the decision of this Court in the case of A.Hemalatha (1 supra) the proceedings impugned herein have to be set aside.

In the result the writ petition is allowed setting aside the proceedings dated 07.05.2004 issued by the second respondent. However, it is made clear that this order will not preclude the respondents from taking disciplinary action, if any, against the petitioner as per law. In the circumstances, no costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday the fifth day of two thousand three.

K.C. BHANU, J

05th July, 2004.
KLP

ASSISTANT REGISTRAR

//True copy//

SECTION OFFICER.

To
1 The Managing Director, A.P.S.T.R.C., Musheerabad, Hyd.
2 The Depot., Manager, APSRTC, Korutla Depot, Korutla, Karimnagar Dist.
3. Two C.D. copies.

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[1] W.P.No.401/2000 dt.22-06-2000.